

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

WILLIAM M. FUNK

Plaintiff,

v.

**NISSAN MOTOR ACCEPTANCE
CORPORATION, d/b/a INFINITI
FINANCIAL SERVICES,**

Defendant.

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CIVIL ACTION NO. 4:16-cv-01562

NISSAN MOTOR ACCEPTANCE CORPORATION'S NOTICE OF REMOVAL

COMES NOW Defendant Nissan Motor Acceptance Corporation doing business as Infiniti Financial Services (“NMAC”) and files this Notice of Removal pursuant to 28 U.S.C. §§ 1331, 1441, and 1446(a) and (b). As grounds for removal, NMAC states as follows:

STATE COURT ACTION

1. NMAC is a defendant in a civil action pending in the 270th Judicial District Court of Harris County, Texas styled: *William M. Funk v. Nissan Motor Acceptance Corporation d/b/a Infiniti Financial Services*, Cause No. 2016-34244 (the “State Court Action”).¹ See Appendix Tab B, Pl. Orig. Pet.

2. On May 24, 2016, Plaintiff William M. Funk (“Funk”) filed an Original Petition & Application for Temporary Restraining Order, Temporary Injunction & Permanent Injunction (“Original Petition”) in the State Court Action. See Appendix Tab B, Pl. Orig. Pet. The State Court Action raises a federal question with claims pled, *inter alia*, under the Consumer Leasing Act, 15 U.S.C. § 1667 *et. seq.*

¹ Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, NMAC contemporaneously files and incorporates an Appendix containing true and correct copies of all materials filed in the State Court Action as of the date of this pleading.

VENUE AND REMOVAL PROCEDURE

3. Venue is proper in this district. Except as otherwise expressly provided by Act of Congress, any civil action brought in a State Court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending.² The Houston Division is the division of the United States District Court for the Southern District of Texas embracing Harris County, Texas – the county in which the State Court Action is pending.

4. This notice of removal is timely filed within thirty (30) days of NMAC's receipt of the Original Petition on May 24, 2016.³

GROUND FOR REMOVAL: FEDERAL QUESTION

5. It is well-established that “the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.”⁴ The State Action raises a federal question with claims filed under the Consumer Leasing Act, 15 U.S.C. § 1667 *et. seq.* Thus, this Court has original jurisdiction over the State Court Action.⁵

COURT AND PARTY INFORMATION

6. This action is being removed from the following court: Honorable Brent Gamble, 270th Judicial District Court, Harris County, Texas. The parties in the State Court Action are: (1) Plaintiff William M. Funk; and (2) Defendant Nissan Motor Acceptance Corporation *doing business as* Infiniti Financial Services.

² 28 U.S.C. § 1441.

³ 28 U.S.C. § 1446(b)(1).

⁴ 28 U.S.C. § 1331.

⁵ 28 U.S.C. § 1331, 1441(a), (c).

FILING WITH STATE COURT

7. NMAC will promptly file a stamp-filed copy of this notice of removal with the clerk of the state court where the State Court Action is pending.

CONCLUSION

8. WHEREFORE, pursuant to 28 U.S.C. § 1331, and in conformance with 28 U.S.C. § 1446(b), Defendant Nissan Motor Acceptance Corporation hereby seeks the Court's removal of the case styled: *William M. Funk v. Nissan Motor Acceptance Corporation d/b/a Infiniti Financial Services*, Cause No. 2016-34244, from the 270th Judicial District Court of Harris County, Texas, to the Houston Division of the United States District Court for the Southern District of Texas. NMAC requests all other equitable and legal relief to which it may be entitled.

Respectfully submitted,

/s/ W. Ashton Randall III
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**ATTORNEY FOR DEFENDANT
NISSAN MOTOR ACCEPTANCE
CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2016, I served a copy of the foregoing document on all known counsel or record by Notice of Electronic Filing generated by CM/ECF:

Via ECF:

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PRO SE PLAINTIFF

/s/ W. Ashton Randall III
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